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BEFORE THE ARIZONA CORPORATION COMMISSION

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4 Commissioner

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Commissioner

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7 Commissioner

8 BOB STUMP
Commissioner

9 IN THE MATTER OF THE REVIEW AND)
10 POSSIBLE REVISION OF ARIZONA)
11 UNIVERSAL SERVICE, FUND RULES)
12 ARTICLE 12 OF THE ARIZONA)
ADMINISTRATIVE CODE.)

DOCKET NO. RT-00000H-97-0137

13 IN THE MATTER OF THE)
14 INVESTIGATION OF THE COST OF)
TELECOMMUNICATIONS ACCESS.)

DOCKET NO. T-00000D-00-0672

15
16 **NOTICE OF FILING**
17 **DIRECT TESTIMONY OF DON PRICE**

18 Attached is the Direct Testimony of Don Price filed on behalf of Verizon
19 California, Verizon Business Services, and Verizon Long Distance.

20 RESPECTFULLY SUBMITTED this 1st day of December, 2009.

21 LEWIS AND ROCA

22
23 Arizona Corporation Commission

24 **DOCKETED**

25 DEC -1 2009

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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE REVIEW)
AND POSSIBLE REVISION OF)
ARIZONA UNIVERSAL SERVICE) DOCKET NO. RT-00000H-97-0137
FUND RULES, ARTICLE 12 OF THE)
ARIZONA ADMINISTRATIVE CODE.)

IN THE MATTER OF THE)
INVESTIGATION OF THE COST OF) DOCKET NO. T-00000D-00-0672
TELECOMMUNICATIONS ACCESS.)

DIRECT TESTIMONY OF

DON PRICE

ON BEHALF OF VERIZON

December 1, 2009

1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS**
3 **ADDRESS.**

4 A. My name is Don Price. I am a Director - State Public Policy for Verizon.
5 My business address is 701 Brazos, Suite 600, Austin, Texas, 78701.

6 **Q. MR. PRICE, PLEASE DESCRIBE YOUR EDUCATIONAL AND**
7 **PROFESSIONAL BACKGROUND.**

8 A. I have more than 30 years experience in the communications industry, the
9 vast majority of which is in the public policy area. I worked for the
10 former GTE Southwest in the early 1980s. In 1983 I moved to the Texas
11 Public Utilities Commission. There, I acted as a Commission analyst and
12 witness on rate-setting and policy issues. In 1986, I became Manager of
13 Rates and Tariffs, and was responsible for Staff analyses of rate design
14 and tariff policy issues in all telecommunications proceedings before the
15 Commission. I joined MCI in 1986, where I spent 19 years focused on
16 public policy issues in telecommunications, including issues of intercarrier
17 compensation and coordination of positions in interconnection agreement
18 negotiations.

19
20 With the close of the Verizon/MCI merger in January 2006, I assumed my
21 current position as Director – State Regulatory Policy for Verizon
22 Business. I work with various corporate departments, including those

1 involved with product development and network engineering, to develop
2 and coordinate policies permitting Verizon Business to offer enterprise
3 and wholesale products to meet customer demands.

4
5 During my career, I have testified before state regulators in at least 22
6 states on a wide range of issues in many types of proceedings and on a
7 variety of topics, including various intercarrier compensation issues, and
8 technical and policy issues arising in interconnection agreement
9 arbitrations with local exchange carriers. I earned both a Master's and
10 Bachelor's degree in sociology from the University of Texas at Arlington
11 in 1978 and 1977, respectively.

12 **Q. PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY.**

13 A. On September 29, 2009, the Arizona Corporation Commission
14 ("Commission") issued a Procedural Order ("Order") identifying twelve
15 issues to be addressed at the March 16, 2010 hearing in these companion
16 dockets, and directing parties to file their written direct testimony by
17 December 1, 2009. The purpose of my testimony is to present the position
18 of Verizon California, Verizon Business Services and Verizon Long
19 Distance (collectively, "Verizon") on those issues.

20 **Q. WHAT IS VERIZON'S POSITION?**

21 A. The Commission seeks input on a number of issues involving intrastate
22 access charges and the Arizona Universal Service Fund ("AUSF"). While

1 I address all twelve issues identified in the Order in Section V below, my
2 testimony focuses primarily on the need to reform certain local exchange
3 carriers' intrastate switched access rates. I also explain below that AUSF
4 reform is neither necessary nor appropriate.

5 **Q. PLEASE SUMMARIZE VERIZON'S POSITION ON INTRASTATE**
6 **SWITCHED ACCESS RATES.**

7 A. Verizon recommends that the Commission require all local exchange
8 carriers ("LECs"), including competitive LECs ("CLECs"), to cap their
9 intrastate access charges at the regional Bell Operating Company's—here,
10 Qwest's—levels. This will promote efficient intrastate access rates for all
11 carriers in Arizona by driving the most excessive access rates toward more
12 efficient levels. Qwest's intrastate access rates are an appropriate
13 benchmark for this purpose because they have been subject to the greatest
14 regulatory scrutiny and strictest discipline, and thus represent a just and
15 reasonable price for access. Using Qwest's rates as a benchmark would
16 reduce market distortions and promote competitive equity by prompting
17 carriers with the highest access rates to recover more of their network
18 costs from their own customers, rather than from other carriers (and their
19 customers) through access rates.

20
21 Because the establishment of a benchmark will require a reduction in the
22 access rates charged by some LECs, I also suggest that the Commission
23 consider granting greater retail pricing flexibility for rate-regulated

1 services to afford rate-regulated carriers a sufficient opportunity to recover
2 their network costs. Carriers should recoup any lost revenue through their
3 rates for retail services, rather than by seeking expansion of the AUSF. Of
4 course, CLECs already have unfettered retail pricing flexibility because
5 they are not subject to rate regulation and may price their retail services as
6 they wish.

7 **Q. DOES VERIZON TAKE A POSITION ON CHANGES TO THE**
8 **AUSF RULES?**

9 A. Verizon generally recommends that the AUSF rules remain unchanged
10 (with two minor exceptions identified below). Based on comments filed
11 earlier in these dockets, we anticipate that a number of parties to this
12 docket will urge expansion of both the size and scope of the AUSF.
13 However, that result would be detrimental to both consumers and carriers
14 by increasing the contributions needed to fund the AUSF beyond its
15 intended purpose,¹ and by encouraging carriers to rely on artificial
16 subsidies rather than to operate efficiently, as appropriate in a competitive
17 environment.

¹ See Decision No. 70659 (AUSF Amendments Proceeding; Docket No. RT-00000H-97-0137) at 1 (“The AUSF was established to maintain statewide average rates and the availability of basic telephone service to the greatest extent reasonably possible.”) (Dec. 22, 2008); *see also* Decision No. 63267 (same docket) at 1 (Dec. 15, 2000); Decision No. 56639 (AUSF Establishment Dockets) at 5, 32 (purpose of AUSF is to “ameliorate the upward pressure on basic local rates in rural areas” and “ensure that the high cost of providing wireline local exchange service in rural areas will not diminish the availability of affordable service”) (Sept. 22, 1989).

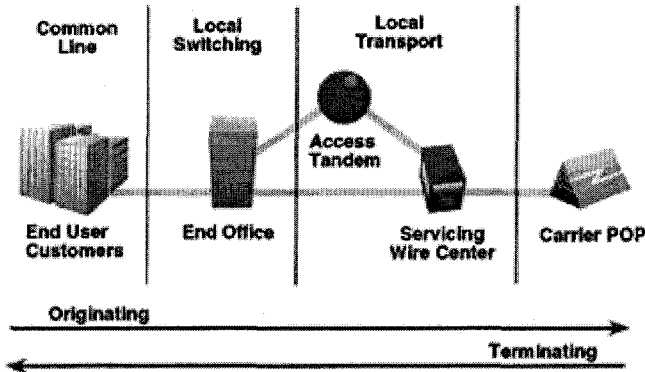
1 **II. OVERVIEW OF SWITCHED ACCESS**

2 **Q. WHAT IS SWITCHED ACCESS?**

3 A. Switched access is a service provided by LECs to other carriers for
4 originating or terminating interexchange or "toll" calls (the origination and
5 termination of local calls is governed by reciprocal compensation, the
6 rates for which are typically lower than access rates). Access charges
7 generally apply to calls that begin and end in different local calling areas.
8 Interstate access charges apply to calls that originate and terminate in
9 different states and are regulated by the Federal Communications
10 Commission ("FCC"). Intrastate access charges apply to calls that
11 originate and terminate in different local calling areas within the same
12 state and are regulated by state commissions.

13
14 The diagram below illustrates how switched access works. The "Carrier
15 POP" is the interexchange carrier's ("IXC's") "point of presence" or
16 "POP." The diagram shows how an interexchange call is delivered either
17 to or from the IXC's POP through connection with the LEC. Switched
18 access charges compensate the LEC for the connection between the end
19 user and the POP or other interconnection point.

Originating & Terminating



1
2 If the interexchange call originates in one state but terminates in another,
3 switched access charges are billed at the interstate rate in the carrier's FCC
4 tariff. If the interexchange call originates and terminates within a state,
5 then it is billed at the intrastate access rate, which is under the state
6 commission's jurisdiction. The switched access rates at issue in this
7 proceeding are the rates that LECs charge IXC's and other carriers to
8 originate or terminate interexchange calls that begin and end in Arizona.

9 **Q. HOW HAVE ACCESS CHARGES TRADITIONALLY BEEN SET?**

10 A. Historically, state and federal regulators jointly created a regulatory
11 pricing system where business and toll rates (both in-state and interstate)
12 were set above the cost of providing these services to provide a
13 contribution to basic residential rates, thereby promoting federal and state
14 universal service objectives.

15
16 AT&T traditionally had a monopoly on long distance communications,
17 and there was no "access" provided to other companies to the long

1 distance network. This industry structure started to change in the 1960s
2 and 1970s with the introduction of private line and then switched service
3 competition in the long distance market. With the advent of increasing
4 interexchange competition and the divestiture of the former Bell System in
5 1984, interstate and intrastate access charges were established so that
6 interexchange carriers could compensate LECs for providing switched
7 access service. Because of universal service concerns, regulators sought
8 to maintain in access charges the contribution flow from long distance to
9 local service that was present in retail long distance charges. In other
10 words, to maintain the rate structure that enabled basic exchange service
11 rates to remain low when toll revenue was available to offset the costs of
12 basic service, both interstate access rates and intrastate access rates were
13 purposefully set at artificially high levels to keep basic exchange service
14 rates low.

15
16 With the onset of local service competition in the 1990s, CLECs entered
17 markets without the legacy obligations of the incumbents, and also
18 without traditional regulation of their rates, whether retail rates charged to
19 end users or access rates charged to other carriers.

20 **Q. DOES THE COMMISSION CURRENTLY REGULATE**
21 **INTRASTATE ACCESS RATES?**

22 **A.** For some carriers, yes. The Commission has scrutinized and reduced
23 Qwest's intrastate access rates several times over the past few years,

1 recognizing that reducing high access charges promotes competition and is
2 in the public interest.² However, the Commission has not addressed
3 switched access rates comprehensively. For example, the Commission
4 does not currently impose any such discipline on CLECs' intrastate
5 switched access rates, even though the same reasons that spurred the FCC
6 to regulate CLECs' *interstate* switched access rates (as discussed further
7 below) hold true in the *intrastate* context.

8
9 **A. CLEC Access Rates**

10 **Q. DO CLECS HAVE MARKET POWER IN THE PROVISION OF**
11 **SWITCHED ACCESS SERVICES IN ARIZONA?**

12 A. Yes. Although CLECs are not generally perceived as possessing
13 significant market power, they do hold such power in the switched access
14 marketplace—particularly as relates to terminating switched access
15 services. Market power exists where consumers are unable to switch
16 suppliers in response to price changes. Given the nature of switched
17 access services, carriers that purchase switched access services are not
18 able to switch suppliers. Carriers have no choice but to use a CLEC's
19 switched access services when they handle interexchange calls originating
20 from the CLEC's customers and when they deliver interexchange calls for
21 termination to the CLEC's customers. A toll provider cannot refuse to

² See Decision No. 68604 (Qwest 2006 price cap order) at 19; *see also* Decision No. 63487 (Qwest 2001 Price Cap Order) at 24 ("Under the Second Revised Settlement Agreement and Price Cap Plan, consumers benefit from ... lower switched access rates.").

1 deliver a call to a CLEC's end user,³ and thus cannot avoid that CLEC's
2 terminating access charges—it is completely at the mercy of the carrier
3 from which the called party obtains local exchange service. CLECs thus
4 have market power in the provision of these services.

5 **Q. BUT ISN'T THE SAME TRUE OF ILECS SUCH AS QWEST?**

6 A. As noted above, the Commission has scrutinized and reduced Qwest's
7 intrastate access rates several times over the past few years. As a result, in
8 the absence of market forces, its intrastate access rates have been
9 disciplined by regulatory intervention. However, the rates of many other
10 smaller ILECs in Arizona have not been subject to similar scrutiny and
11 discipline. For these carriers, the answer is yes: they continue to have
12 market power that enables them to charge intrastate access rates today that
13 exceed levels that are just and reasonable.

14 **Q. DOES PERMITTING CLECS TO COLLECT ACCESS CHARGES**
15 **IN EXCESS OF QWEST'S DISTORT THE MARKET?**

16 A. Yes. Permitting CLECs to collect unreasonably high intrastate access
17 rates provides those companies with a competitive advantage because they
18 are able to recover disproportionately more of their costs from other
19 carriers rather than from their own end users. Purchasers of switched

³ As a general rule, common carriers are legally obligated to complete calls to any end users that their customers desire to call, including end users of CLECs with unreasonably high access rates. As the FCC has stated, "no carriers, including interexchange carriers, may block, choke, reduce or restrict traffic in any way." *In the Matter of Establishing Just and Reasonable Rates for Local Exchange Carriers and Call Blocking by Carriers*, WC Docket No. 07-135, Declaratory Ruling and Order, DA 07-2863 (June 28, 2007), ¶ 6.

1 access services are thus forced to help fund the retail service offerings of
2 their direct competitors in the same service areas. This is contrary to
3 federal policy, as discussed below.

4 **Q. IS THERE ANY REASONED BASIS TO ALLOW ARIZONA**
5 **CLECS TO CHARGE INTRASTATE ACCESS RATES HIGHER**
6 **THAN QWEST'S?**

7 A. No. There is no principled justification for CLECs to continue to charge
8 intrastate access rates that are higher than Qwest's rates.⁴ These newer
9 market entrants have no obligation to serve residential customers, let alone
10 residential customers in rural or other high-cost areas, and do not bear the
11 historical legacy of having to maintain low, regulated retail prices for
12 residential consumers throughout their service areas. CLECs also have the
13 opportunity to use the most efficient mix of technologies and network
14 configurations possible, and should be able to operate at least as efficiently
15 as the incumbent carriers with their legacy networks. Verizon
16 recommends capping CLECs' intrastate switched access rates at Qwest's
17 levels even though this would require its own CLEC affiliate in Arizona to
18 reduce its intrastate access rates (and the revenues derived from those
19 rates).

⁴ A handful of Arizona CLECs currently charge intrastate access rates that are lower than Qwest's. If the Commission adopts Verizon's proposal, it should make clear that these CLECs may not increase their rates to Qwest's levels, which would be contrary to the purposes of reforming the intrastate access charge regime.

1 Q. HAS THE FCC already ADDRESSED THE ISSUE OF ENSURING
2 JUST AND REASONABLE CLEC switched access RATES?

3 A. Yes. To address this issue at the federal level, the FCC eight years ago
4 established a benchmark policy whereby CLECs' per minute interstate
5 access charges are capped at the interstate access charge rates of the ILEC
6 with which the CLEC competes.⁵ CLEC access charges that do not
7 exceed the benchmark are presumed to be just and reasonable.⁶ The FCC
8 explained its benchmark policy as follows:

9 [A] benchmark provides a bright line rule that
10 permits a simple determination of whether a
11 CLEC's access rates are just and reasonable. Such
12 a bright line approach is particularly desirable given
13 the current legal and practical difficulties involved
14 with comparing CLEC rates to any objective
15 standard of "reasonableness." Historically, ILEC
16 access charges have been the product of an
17 extensive regulatory process by which an
18 incumbent's costs are subject to detailed accounting
19 requirements, divided into regulated and non-
20 regulated portions, and separated between the
21 interstate and intrastate jurisdictions. Once the
22 regulated, interstate portion of an ILEC's costs is
23 identified, our access charge rules specify in detail
24 the rate structure under which an incumbent may
25 recover those costs. This process has yielded
26 presumptively just and reasonable access rates for
27 ILECs.⁷
28

⁵ *CLEC Rate Cap Order* at ¶ 40; 47 C.F.R. § 61.26 (b). *See also* discussion of the terminating access monopoly, particularly as it relates to CLECs, in Nuechterlein, Jonathan E., and Weiser, Philip J., "Digital Crossroads," The MIT Press (2007) at 310-313.

⁶ The FCC allows CLECs to charge rates higher than those of the ILEC only through negotiated arrangements – not through a tariff. The FCC reasoned that if a CLEC provides a superior quality of access service, or if it has a particularly desirable subscriber base, an interexchange carrier may be willing to contract to pay access rates above the benchmark.

⁷ *CLEC Rate Cap Order* at ¶ 41.

1 The FCC's rule was prompted by "persistent" concerns that CLEC access
2 rates varied dramatically and were frequently well above the rates charged
3 by ILECs operating in the same area. The FCC's price cap was, therefore,
4 intended to prevent CLECs from imposing excessive access charges on
5 interexchange carriers and their customers.⁸

6 **Q. SO ALL ARIZONA CLECS ARE ALREADY REQUIRED TO**
7 **COMPLY WITH THE FCC'S ACCESS RATE CAP?**

8 A. Yes. All Arizona CLECs already must comply with the FCC rule for
9 interstate switched access rates, and the rate cap mechanism Verizon has
10 proposed for both CLEC and ILEC rates in Arizona would be calculated in
11 this same, familiar way. As noted, the FCC requires CLECs to benchmark
12 to the competing ILEC's rate. Assuming all carriers move to this single,
13 uniform rate, as Verizon recommends, the competing ILEC rate as to all
14 CLECs will be the Qwest rate. If the Commission declines to move all
15 ILECs to Qwest's rate, then it should require CLECs to benchmark to the
16 competing ILEC's rate.

17
18 **B. ILEC Access Rates**

19 **Q. ARE ILECS' INTRASTATE SWITCHED ACCESS RATES ALSO**
20 **IN NEED OF REFORM?**

21 A. Yes. Although the Commission has disciplined Qwest's rates, many small
22 Arizona ILECs charge intrastate access rates that are many multiples of

⁸ *Id.* at ¶¶ 32-34.

1 Qwest's. As with excessive CLEC access rates, this distorts the
2 telecommunications marketplace and impairs competition and the
3 consumer benefits it was intended to bring.

4 **Q. IS THERE ANY REASON TO ALLOW OTHER ARIZONA ILECS**
5 **TO CHARGE INTRASTATE ACCESS RATES HIGHER THAN**
6 **QWEST'S?**

7 A. No. The Commission should benchmark the other ILECs' rates to the
8 prevailing market rate—that is, the rate of the largest carrier, Qwest. If the
9 benchmarked rate would deny certain ILECs the opportunity to recover
10 their costs, then the Board should give them greater retail pricing
11 flexibility for their rate regulated services. Verizon takes this position
12 even though it has an ILEC affiliate offering intrastate switched access
13 services in Arizona at rates that currently exceed Qwest's, and would be
14 required to reduce those rates if the Commission adopts Verizon's
15 recommendation.

16
17 **III. THE COMMISSION SHOULD ESTABLISH AN INTRASTATE**
18 **ACCESS RATE BENCHMARK**

19 **Q. WHY SHOULD THE COMMISSION ESTABLISH AN**
20 **INTRASTATE ACCESS RATE BENCHMARK?**

21 A. Doing so would be a simple and effective means to quickly move the most
22 excessive switched access rates in Arizona to more efficient levels. A
23 benchmark will promote equity and competitive parity and reduce market
24 distortions by prompting carriers with the highest access rates to recover

1 more of their network costs from their own customers, rather than from
2 other carriers and their customers through access rates. Allowing
3 companies to shift too much of their costs to switched access purchasers
4 (and their retail customers) places a disproportionate burden on other
5 carriers in the state—and ultimately, their customers—to subsidize those
6 companies' services.

7 **Q. WHAT IS THE BEST WAY FOR THE COMMISSION TO**
8 **EVALUATE THE INTRASTATE SWITCHED ACCESS RATES**
9 **ASSESSED IN ARIZONA?**

10 A. Different carriers often employ different access rate structures. For
11 example, some carriers may apply a single local switching rate element to
12 all traffic; others may charge different rates for originating and terminating
13 traffic. Some may impose additional monthly recurring charges,
14 surcharges and/or fees on customers purchasing intrastate switched access
15 services.

16
17 Given the existence of such varying rate structures, it is useful to compare
18 carriers' average access revenues per minute ("ARPM"). The ARPM
19 analysis takes into account all of the usage-based access rate elements that
20 the carrier charges its access customers, and generally provides a more
21 "apples-to-apples" comparison of the aggregate, per-minute rate than a
22 review that compares only particular rate elements.

1 Q. have you conducted any arpm analysis of intrastate switched
2 access rates in arizona?

3 A. Yes. As discussed in Verizon's January 4, 2008 comments, a comparison
4 of the ARPMs of Qwest and other carriers that bill Verizon intrastate
5 access charges in Arizona confirms that many carriers' intrastate access
6 charges are substantially higher than Qwest's. Indeed, some carriers have
7 rates that are 400% to 1000% higher than Qwest's.⁹
8

9 **Q. WHAT RATE SHOULD SERVE AS THE BENCHMARK?**

10 A. The intrastate switched access rates of the largest ILEC in the state—in
11 this case, Qwest—should serve as the benchmark. As noted above,
12 Qwest's intrastate access rates have historically been subject to the most
13 regulatory scrutiny, ensuring that they represent a just and reasonable rate.
14

15 **Q. IS VERIZON ASKING THE COMMISSION TO SET SPECIFIC**
16 **SWITCHED ACCESS RATES FOR SPECIFIC LECS?**

17 A. No. Verizon requests that the Commission establish a benchmark that
18 would impose a ceiling on the intrastate access rates that LECs may
19 charge, just as the FCC and numerous other states have done.¹⁰ Although

⁹ Verizon's ARPM calculations for specific companies are confidential.

¹⁰ See, e.g., *Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Seventh Report & Order and Further Notice of Proposed Rulemaking, 16 FCC Rcd 9923 (2001) ("CLEC Rate Cap Order"); *Order Instituting Rulemaking to Review Policies Concerning Intrastate Carrier Access Charges*, **California** D. 07-12-020 in Rulemaking 03-08-018, Final Opinion Modifying Intrastate Access Charges (Dec. 6, 2007) (capping CLEC rates at no higher than Verizon's or SBC's rate, plus 10%); *DPUC Investigation of Intrastate Carrier Access Charges*, Decision, **Connecticut** D.P.U. Docket No. 02-05-17 (2004), 2004 Conn. PUC Lexis

- 1 caps have most often targeted CLEC access rates, the principle underlying
2 such caps applies equally to all LECs—that is, a company should not be

15, at *45 (capping CLEC rates at SBC's then-current rate); **Delaware** Code, Title 26, § 707(e) (capping all service providers' switched access rates at the level of the largest ILEC in the state); **Indiana** Code § 8-1-2.6-1.5 (a carrier's switched access rates are just and reasonable if they mirror its interstate switched access rates); *TDS Metrocom, Inc., Petition for Arbitration*, Arbitration Decision, **Illinois** Comm. Comm'n Docket No. 01-0338, at 48-50 (Aug. 8, 2001) and *Arbitration Between AT&T Comm. of Illinois, Inc. and Ameritech, Arbitration Decision*, Illinois Comm. Comm'n Docket No. 03-0239, at 149-51 (Aug. 26, 2003) (a CLEC may not charge an ILEC more for terminating intrastate switched access than the ILEC charges the CLEC); 199 **Iowa** Admin. Code 22.14(2)(d)(1)(2) (prohibiting CLECs from charging a carrier common line charge if it would render the CLEC's rate higher than the competing ILEC's rate); **Louisiana** PSC General Order No. U-17949-TT, App.B, Section 301 (k)(4) (May 3, 1996) (CLECs must charge non-discriminatory switched access rates that do not exceed the competing ILEC's rates); Code of **Maryland** Regulations § 20.45.09.03(b) (capping all LECs' switched access rates at the level of the largest LEC in Maryland); *Petition of Verizon New England Inc. et al. for Investigation Under Chapter 159, Section 14, of the Intrastate Access Rates of Competitive Local Exchange Carriers*, Final Order, **Massachusetts** D.T.C. 07-9 (June 22, 2009) (capping CLEC switched access rates at Verizon's level); *Access Rates to Be Charged by Competitive Local Exchange Telecommunications Companies in the State of Missouri*, Report and Order, **Missouri** P.S.C. Case No. TO-99-596, 2000 Mo. PSC Lexis 996, at *28-31 (June 1, 2001) (capping CLEC access rates at the competing ILEC's level); *In the Matter of the Commission, on Its Own Motion, Seeking to Conduct an Investigation into Intrastate Access Charge Reform and Intrastate Universal Service Fund*, **Nebraska** Pub. Serv. Comm'n Application No. C-1628/NUSF, Progression Order #15, at ¶ 9 (Feb. 21, 2001) ("absent a demonstration of costs, a CLEC's access charges, in aggregate, must be reasonable comparable to the ILEC with whom they compete"); **New Hampshire** PUC § 431.07 (CLECs cannot charge higher rates for access than the ILEC does); **New York** P.U.C. Case 94-C-0095, Order, at 16-17 (Sept. 27, 1995), N.Y. P.U.C. Opinion 96-13, at 26-27 (May 22, 1996), and N.Y. P.S.C. Opinion 98-10, 1998 N.Y. PUC Lexis 325, at 26-27 (June 2, 1998) (benchmarking CLEC access charges to the level of the largest carrier in the LATA); *Establishment of Carrier-to-Carrier Rules*, Entry on Rehearing, **Ohio** P.U.C. Case No. 06-1344-TP-ORD, at 16-18 (Oct. 17, 2007) (capping CLECs' switched access rates at the level of the competing ILEC); *Investigation into the Modification of Intrastate Switched Access Charges*, Opinion and Order, Case No. 00-127-TP-COI (requiring four ILECs' intrastate switched access rates to mirror their interstate access rates); 66 **Pennsylvania** Consolidated Statutes § 3017 (c) (prohibiting CLEC access rates higher than those charged by the incumbent in the same service territory, absent cost justification); **Texas** P.U.C. Subst. Rule § 26.223 (a CLEC may not charge a higher rate for intrastate switched access than the ILEC in the area served or the statewide average composite rates published by the Texas P.U.C. and updated every two years); *Amendment of Rules Governing the Certification and Regulation of CLECs*, Final Order, **Virginia** State Corp. Comm. Case No. PUC-2007-00033 (Sept. 28, 2007) (a CLEC's switched access rate cannot exceed the higher of its interstate rate or the rate of the competing ILEC); **Washington** Admin. Code § 480-120-540 (requires CLECs' and ILECs' terminating access rates to be no higher than their local interconnection rate, or depending on their regulatory status, incremental cost). In **West Virginia**, a Hearing Examiner's recommendation to cap CLEC switched access rates at the competing ILEC's level is pending approval by the Commission. *Petition by Verizon West Virginia Inc. Requesting that Commission Initiate a General Investigation of the Intrastate Switched Access Charges of Competitive Local Exchange Carriers Operating in WV*, Case No. 08-0656-T-GI.

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allowed to charge above the prevailing market rate—which, in Arizona, is Qwest's rate.

LECs with existing intrastate access rates below the benchmark should not, of course, be permitted to raise their rates. Such a result would have the aberrant effect of encouraging some LECs to *increase* the amount of costs shifted to other carriers, which would obviously undermine the economic efficiency that establishing a cap is intended to drive.

Q. HOW SHOULD THE COMMISSION SET THE BENCHMARK?

A. The benchmark rate should be determined by calculating the composite of the Qwest intrastate switched access rate elements for the functions that the LEC at issue actually performs in providing its switched access service. Therefore, the benchmark rates will vary with the switched access functions the LEC performs and the miles of transport, where applicable. Based on Verizon's proprietary calculations, Qwest's composite rate is approximately *****BEGIN CONFIDENTIAL** _____ **END CONFIDENTIAL***** per minute of use.

1 **CHANGES TO THE AUSF RULES**

2 **Q. DOES VERIZON ADVOCATE FOR SIGNIFICANT**
3 **MODIFICATIONS TO THE CURRENT AUSF RULES?**

4 A. No. As noted earlier, Verizon generally recommends that the AUSF rules
5 remain unchanged. There is no evidence that the current fund is not
6 meeting its goals, such that it must be increased.

7
8 Expansion of the size and/or scope of the AUSF—as proposed in prior
9 comments filed by a number of parties to these dockets—would harm both
10 consumers and carriers. Verizon thus urges the Commission to focus on
11 the critical issue of intrastate switched access charges, rather than on rule
12 changes that would expand the size and/or scope of the AUSF beyond its
13 purpose. In particular, the Commission should not expand the AUSF to
14 serve as an “access recovery mechanism” for carriers that are required to
15 reduce their intrastate access rates to just and reasonable levels. Such an
16 approach would simply perpetuate the anticompetitive *status quo*, under
17 which these providers recover their network costs from someone other
18 than their own end users.

19 **Q. DOES VERIZON PROPOSE ANY MODIFICATIONS TO THE**
20 **AUSF RULES?**

21 A. As addressed in Section V of my testimony, Verizon proposes two minor
22 modifications. The first is elimination of R14-2-1206(E), which makes
23 AUSF support available to any competing carrier operating in the same

1 area as a carrier that has qualified for AUSF disbursements. The other is
2 to incorporate a *de minimis* exception that relieves carriers whose AUSF
3 assessment would be less than \$500/month from contributing to the fund,
4 in recognition of the reality that the costs of compliance would exceed the
5 contribution amount. Verizon's rationale is explained below.

6
7 **IV. VERIZON'S RESPONSES TO THE ISSUES IN THE ORDER**

8 **Q. DOES VERIZON HAVE A POSITION ON ANY OF THE TWELVE**
9 **ISSUES IDENTIFIED IN THE ORDER?**

10 A. Yes. My testimony thus far collectively addresses a number of the issues
11 identified in the Commission's Order, but I also offer a brief individual
12 response to each issue below.

13
14 **1. What carriers should be covered by access reform?**

15
16 As discussed above, the intrastate access rates of all Arizona LECs (save
17 Qwest, whose rates should serve as a benchmark) should be subject to
18 reform. If the Commission wishes to stage the reform process, it should
19 concentrate first on the CLECs. Reform of CLEC rates will be the
20 quickest and easiest way to move toward more efficient access pricing,
21 because the CLECs' retail rates have never been constrained and they
22 have no carrier-of-last-resort types of obligations.

23
24 **2. To what target level should access rates be reduced?**

25
26 The Commission should cap the intrastate access rates at Qwest's
27 intrastate switched access rate. Because Qwest's intrastate switched
28 access rates have been subject to the greatest degree of regulatory scrutiny
29 and have been deemed just and reasonable,¹¹ using its rates as a
30 benchmark will help ensure that all intrastate switched access rates
31 charged in Arizona are just and reasonable.
32

¹¹ See Decision No. 68604 (Qwest 2006 price cap order) at 31.

1 **3. What procedures should the Commission implement to achieve the**
2 **desired reduction in access rates?**
3

4 The Commission should enter an order capping the intrastate access rates
5 of all LECs at the composite of the Qwest intrastate switched access rate
6 elements for the functions that the LEC at issue actually performs in
7 providing its switched access service. The order should further direct that
8 if a LEC's current intrastate access rates comply with the new cap, it shall
9 file, within 30 days, a sworn affidavit attesting that its current intrastate
10 switched access tariff is in compliance with the order. If a LEC's current
11 intrastate access rates do not comply with the new cap, the order should
12 require it to file, within 30 days, both a new intrastate switched access
13 tariff that complies with the order (bearing an effective date no later than
14 30 days after the order) and a sworn affidavit attesting that the new
15 intrastate switched access tariff complies with the order.

16
17 The order should also permit any LEC that is required to file a new
18 intrastate switched access tariff as a result of the order and whose retail
19 rates are regulated to quantify the revenue reduction associated with the
20 ordered access reductions and propose retail tariff changes to offset those
21 lost revenues within 30 days of the order, if the LEC chooses to do so.
22 LECs whose retail rates are unregulated already have this flexibility. The
23 Commission should also retain jurisdiction to investigate and compel
24 compliance with the order.

25
26 **4. Should carriers be permitted to contract for access rates that differ**
27 **from their tariffed rates?**
28

29 Yes. As the FCC has recognized, market-based mechanisms are the best
30 way to produce efficient prices and promote the public interest.¹²
31 Negotiated intercarrier compensation agreements are the best long-term
32 solution to ensuring the efficiency of telecommunications markets in the
33 face of substantial technological change. Among other advantages, this
34 kind of approach, by virtue of being technologically neutral, adapts more
35 easily to changing technologies, encouraging their introduction without
36 the need to modify the regulatory regime. Until the industry can fully
37 transition to a regime of commercially negotiated agreements, however,
38 the Commission needs to ensure that access rates are set and maintained at
39 a level that will promote competition and economic efficiency. As a first
40 step toward the ideal of negotiated intercarrier compensation

¹² See *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board On Universal Service*, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962, ¶ 178 (May 31, 2000) ("CALLS Order").

1 arrangements, the Commission should set a benchmark to which other
2 carriers' rates should move (and from which carriers may choose to later
3 negotiate deviations). As Verizon has explained, the most appropriate
4 benchmark is Qwest's intrastate switched access rate.
5

6 **5. What revenue sources should be made available to carriers to**
7 **compensate for the loss of access revenues?**
8

9 To the extent carriers choose not to absorb access reductions ordered in
10 this proceeding, the Commission should give them sufficient retail rate
11 flexibility to recover lost access revenues from the retail rates they charge
12 their own customers. Above all, the Commission should reject proposals
13 to permit access revenue recovery from the AUSF, which should remain
14 small and devoted to its primary purpose of establishing reasonably
15 comparable rates between urban and high-cost areas.¹³ Expanding the
16 AUSF would have the inefficient and undesirable result of continuing to
17 subsidize carriers that prefer to dip into their competitors' pockets to
18 replace lost access revenue, rather than recovering those revenues from
19 their own customers. Such a result is incompatible with a healthy,
20 competitive market for communications services.
21

22 **6. How much of access cost recovery, if any, should be shifted to end**
23 **users? What showing should be required for such a shift? What**
24 **should be the role of "benchmark" rates and how should benchmarks**
25 **be set?**
26

27 As noted above in response to Issues 3 and 5, the Commission should give
28 carriers sufficient retail rate flexibility to recover lost access revenues
29 through their retail rates, since it is appropriate for carriers to recover their
30 network costs from their own end users, rather than from their
31 competitors. A quantification of the revenue reduction associated with the
32 ordered access reductions, supported by affidavit, should constitute a
33 sufficient showing to permit recovery of up to that amount via retail
34 rates. Establishment of "benchmark" rates is not necessary under this
35 approach.
36

37 **7. Procedurally what will be required of a carrier if it seeks a "revenue**
38 **neutral" increase in local rates?**
39

40 As recommended in response to Issues 3, 5 and 6, the Commission should
41 permit a rate-regulated carrier that chooses to quantify the revenue
42 reduction associated with any ordered intrastate switched access
43 reductions and propose retail tariff changes to offset those lost revenues to

¹³ See Decision No. 70659 at 1; *see also* Decision No. 63267 at 1; Decision No. 56639 at 5, 32.

1 do so within 30 days of an order requiring intrastate switched access rate
2 reductions by filing new tariffs and an affidavit attesting to compliance
3 with the Commission order. The Commission should retain jurisdiction to
4 investigate and compel compliance with the order.
5

- 6 **8. Assuming that AUSF funds will also be used as a compensating**
7 **revenue source, what specific revisions (including specific**
8 **recommended amendment language) to the existing rules are needed**
9 **to allow use of AUSF funds for that purpose?**
10

11 The Commission should not authorize the use of AUSF funds as an access
12 revenue recovery mechanism. To do so would go far beyond the original
13 purpose of the fund, and would be bad public policy for the reasons
14 previously discussed.
15

- 16 **9. Which carriers should be eligible for AUSF support?**
17

18 To the extent that this question assumes that the AUSF should be
19 transformed into an access recovery mechanism, Verizon vigorously
20 disagrees with that assumption. No carrier should be eligible for access
21 revenue recovery from the AUSF.
22

- 23 **10. What should be supported by AUSF? Access replacement only?**
24 **High cost loops? Line extensions? Centralized administration and**
25 **automatic enrollment for Lifeline and Link-up?**
26

27 AUSF funds should be limited to supporting basic local exchange
28 telephone service, as defined in R14-2-1201(6). The Commission should
29 not expand that definition, or the scope of AUSF-supported offerings, to
30 include any other services (including those proposed in Issue 10).
31

- 32 **11. What should be the basis of AUSF contributions and what should be**
33 **the structure of any AUSF surcharge(s)?**
34

35 Other than the *de minimis* exception proposed in response to Issue 12
36 below, Verizon recommends no changes to the existing AUSF
37 contribution and surcharge structure provisions, but reserves its right to
38 respond to other parties' testimony on reply.
39

- 40 **12. Any other specific revisions to the AUSF rules.**
41

42 Only one carrier per geographic area should be entitled to AUSF support,
43 regardless of the technology used by that carrier. The Commission
44 should, therefore, eliminate R14-2-1206(E), which makes AUSF support
45 available to any competing carrier operating in the same area as a carrier

1 that qualified for AUSF disbursements. There is no justification for
2 supporting duplicative coverage in an area that is already being served by
3 a carrier receiving AUSF support.
4

5 In addition, the Commission should implement a *de minimis* exception
6 that would exclude carriers whose AUSF assessment would be less than
7 \$500/month from contributing to the fund, since the cost of generating and
8 processing reports and payments would exceed the contribution amount.¹⁴
9 The Commission could accomplish this by amending R14-2-1204 to add a
10 new section C. that reads as follows:
11

12 C. Notwithstanding the other provisions of this Article, no
13 telecommunications service provider whose AUSF funding
14 obligation totals less than \$500 per month shall be subject to an
15 AUSF funding assessment.
16
17

18 **V. CONCLUSION**

19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

20 **A. Yes.**

¹⁴ For example, Texas has such an exception. See Texas P.U.C. Rule 26.420(f)(3)(C).